

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

DEBORAH L. LITTLE,	:	
Plaintiff,	:	
	:	
-vs-	:	Civil No. 3:99cv887 (PCD)
	:	
UNITED STATES POSTAL SERVICE,	:	
Defendant.	:	

RULING ON DEFENDANT’S MOTION TO DISMISS

Defendant moves to dismiss plaintiff’s second amended complaint pursuant to FED. R. CIV. P. 12(b)(6). For the reasons set forth herein, the motion to dismiss is granted.

II. BACKGROUND

The procedural history of the present action is as follows. Plaintiff filed her complaint on December 3, 1998. On March 13, 2001, the complaint was dismissed for lack of prosecution pursuant to D. CONN. L. CIV. R. 16(a). On April 16, 2001, the order dismissing the case was vacated. On January 18, 2002, the complaint was dismissed for plaintiff’s failure to provide a short and plain statement of her claim. On February 15, 2002, plaintiff filed an amended complaint followed by a second amended complaint filed on March 26, 2002. On May 10, 2002, plaintiff’s second amended complaint was again dismissed for failure to provide a short and plain statement of the claim. On June 7, 2002, plaintiff filed a third amended complaint. Defendant now moves to dismiss this complaint.

II. DISCUSSION

Although plaintiff provides significantly more detail in her third amended complaint, the factual

allegations still fall short of the requisite level of detail necessary to put defendant on notice of her claim. Specifically, plaintiff alleges that she worked for defendant between 1985 and 1996, that she suffered various injuries during that period of employment, and that she is entitled to an award of damages for lost property, personal injury, lost wages and future wages. Plaintiff further provides under the title “cause of action” a reference to a loading dock accident, violation of defendant’s arbitration procedures, “Family Act Leave,” unjust dismissal, due process violation and unreasonable search and seizure by one of her supervisors.¹

Although the level of detail has improved from prior versions, the complaint will not pass muster under the *Federal Rules of Civil Procedure* as sufficiently alleging a colorable claim, even under the most liberal reading thereof. See *Haines v. Kerner*, 404 U.S. 519, 520-21, 92 S. Ct. 594, 30 L. Ed. 2d 652 (1972); *Graham v. Henderson*, 89 F.3d 75, 79 (2d Cir. 1996). Plaintiff details her injuries and remedies sought to compensate her for those injuries sustained during the period of time in which she was employed by defendant but fails to allege how defendant is responsible for the injuries. The mere fact that plaintiff was injured during her term of employment with defendant does not automatically require that defendant compensate her for those injuries. In general, liability arises when a defendant has agreed to compensate a plaintiff for injuries sustained, when federal or state law requires that the defendant so compensate a plaintiff, or when defendant’s omission or malfeasance implicates a violation of state or federal law that renders the defendant liable to the plaintiff for injuries sustained thereby.

¹ Plaintiff’s claim of an unreasonable search and seizure may potentially state a claim, see *O’Connor v. Ortega*, 480 U.S. 709, 715, 107 S. Ct. 1492, 94 L. Ed. 2d 714 (1987), but an allegation that a locker was searched without a reference to a date or occurrence or name of the supervisor involved does not provide defendant with sufficient information to investigate the claim.

None of these theories of liability are implicated by plaintiff's allegations. The complaint thus does not contain "a short and plain statement of the claim showing that the pleader is entitled to relief." FED. R. CIV. P. 8(a)(2), nor does it provide defendant with notice of the claims against it sufficient to answer and prepare for trial. *Simmons v. Abruzzo*, 49 F.3d 83, 87 (2d Cir. 1995). The legal basis for her claims still cannot be discerned from her statement of facts and law. *Salahuddin v. Cuomo*, 861 F.2d 40, 42 (2d Cir. 1988). Defendant's motion is granted.

III. CONCLUSION

Defendant's motions to dismiss (Doc. 30) is **granted**. The Clerk shall close the file. Plaintiff is granted leave to file an amended complaint within thirty days.

SO ORDERED.

Dated at New Haven, Connecticut, October ___, 2002.

Peter C. Dorsey
United States District Judge